

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**LEROY RILEY,** )  
                        )  
                        )  
**Plaintiff,**       )  
                        )  
                        )  
                        v.      ) **Civil Action No. 05-172E**  
                        ) **Judge Sean J. McLaughlin**  
**CHARLES M. SIMPSON, et al.,** ) **Magistrate Judge Susan Paradise Baxter**  
                        )  
                        )  
**Defendants.**       )

**MOTION FOR EXTENSION OF TIME**

AND NOW, come the defendants, Charles M. Simpson, Kerri Cross, David McCoy, Charles M. Shane and Mr. Gaston, by their attorneys, Thomas W. Corbett, Jr., Attorney General, Robert A. Willig, Deputy Attorney General, Susan J. Forney, Chief Deputy Attorney General, Chief, Litigation Section, and respectfully submit the following:

1. By Order dated January 17, 2006, the Marshal was directed to effectuate service on defendants. Apparently, on January 18, 2006, plaintiff did not provide waivers of service in accordance with this Order and in compliance with Federal Rule of Civil Procedure 4.

2. Accordingly, the Marshal made service by summons on various dates between April 24<sup>th</sup> through the 27<sup>th</sup>, resulting in the docket reflecting the answer being due on either April 13, 2006 or April 17, 2006 respectively, for the individual defendants. Technically service was formally deficient because under Pa.R.C.P. 422, as applicable under F.R.C.P. Rule 4, there is no return of service on the Attorney General.

3. Had Plaintiff effectuated service properly, then defendants would anticipate having had sixty days from the date the waiver was sent in order to respond to the Complaint.

Granting this order will remedy this defect, establish a clear date for filing a responsive pleading and will not result in prejudice to the plaintiff or undue delay in the proceedings.

4. Defendants respectfully request an additional 30 days to respond to the complaint.

5. This motion is not designed to prejudice any party, nor does the defense believe such will occur.

WHEREFORE, it is respectfully requested the motion for extension of time be granted and that Defendants' response to the complaint be due on or before May 15, 2006.

Respectfully Submitted,

THOMAS W. CORBETT JR.,  
Attorney General

By: /s/ Robert A. Willig  
ROBERT A. WILLIG  
Deputy Attorney General  
Pa I.D. # 53581

SUSAN J. FORNEY  
Chief Deputy Attorney General  
Chief, Litigation Section

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Pittsburgh, PA 15219  
412-565-5696

**CERTIFICATE OF SERVICE**

I hereby certify that on April 13, 2006, I electronically filed the foregoing ***Motion for Extension of Time*** with the Clerk of Court using the CM/ECF system. And I hereby certify that I have mailed the foregoing document by United States Postal Service to the following non CM/ECF participants:

Leroy Riley, FQ-8672  
SCI-Forest  
P.O. Box 945  
Marienville, PA 16239-0945

By: /s/ Robert A. Willig  
ROBERT A. WILLIG  
Deputy Attorney General